

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

STATE OF TEXAS et al.,

Plaintiffs,

v.

RISING EAGLE CAPITAL GROUP LLC et
al.,

Defendants.

CASE NO. 4:20-cv-02021

**PLAINTIFF STATES' REQUEST FOR THE COURT TO ENTER DEFAULT
AGAINST DEFENDANTS RISING EAGLE CAPITAL GROUP LLC, RISING
EAGLE CAPITAL GROUP-CAYMAN, AND JSQUARED TELECOM LLC**

Plaintiffs, the States of Arkansas, Indiana, Michigan, Missouri, North Carolina, North Dakota, Ohio, and Texas ("Plaintiffs" or "the States") respectfully ask the to enter a default against Defendants Rising Eagle Capital Group LLC, Rising Eagle Capital Group-Cayman, and JSquared Telecom LLC by Federal Rule of Civil Procedure 55.

1. On June 9, 2020, the States (excluding North Dakota) filed their Original Complaint against Defendants John C. Spiller, II ("Spiller"), Jakob A. Mears ("Mears"), JSquared Telecom LLC ("JSquared"), and Rising Eagle Capital Group, LLC ("Rising Eagle"), alleging violations of the TCPA, its related

rules, and various state telemarketing laws. ECF No. 1. On August 28, 2020, the States filed their First Amended Complaint against Defendants, adding the State of North Dakota as a plaintiff. ECF No. 42.

2. On October 30, 2020, the States filed their Second Amended Complaint, adding Defendants Rising Eagle Capital Group – Cayman (“Rising Cayman”), Health Advisors of America, Inc. (“Health Advisors”), Michael Theron Smith, Jr. (“Smith”), and Scott Shapiro (“Shapiro”). ECF No. 56.
3. On November 20, 2020, Defendants Rising Eagle (ECF No. 64) and JSquared (ECF No. 66) filed their Answers.
4. On January 7, 2021, Rising Eagle (ECF No. 81), Rising Cayman (ECF No. 80), and JSquared (ECF No. 81) filed Motions to Dismiss Plaintiffs’ Second Amended Complaint.
5. On July 12, 2021, counsel for Rising Eagle, Rising Cayman, and JSquared filed a motion to withdraw as counsel. ECF No. 119.
6. On August 18, 2021, the Court granted the withdraw, and ordered Rising Eagle, Rising Cayman, and JSquared to have counsel by September 10, 2021, or “Defendants Rising Eagle, Rising Eagle Cayman, and JSquared’s Answers and Motions to Dismiss will be stricken.” ECF No. 130.
7. On September 13, 2021, Plaintiffs filed a Motion to Strike Rising Eagle and JSquared’s Answers and Rising Eagle, Rising Eagle Cayman, and JSquared’s Motions to Dismiss. ECF No. 131.

8. On September 27, 2021, the Court denied the Defendants' Motions to Dismiss. ECF. No. 133.
9. In the September 27, 2021 Order, the Court wrote in footnote 1: "Counsel for the Rising Eagle Defendants has withdrawn. (Dkt. 130). Plaintiffs have filed a motion to strike the answers and motions to dismiss filed by every Rising Eagle Defendant except John C. Spiller and Jakob Mears. (Dkt. 131). The Court will grant Plaintiffs' motion to strike by separate order."
10. To date, the Court has not granted the Motion to Strike.
11. To date, counsel has not entered an appearance for Rising Eagle, Rising Cayman, and JSquared.
12. The Plaintiff States respectfully ask the Court to order the striking of Rising Eagle, Rising Cayman, and JSquared. A proposed order granting the Motion to Strike can be found at ECF No. 131.
13. After the Answers are stricken, Defendants Rising Eagle and JSquared will not have filed a responsive pleading or otherwise defended the suit.
14. Further, Rising Cayman never filed an answer and has not otherwise defended the suit.
15. Defendants Rising Eagle, Rising Cayman, and JSquared, as corporate entities, are not infants, incompetent persons, or members of the United States Military. 50 U.S.C. App. § 520(1); Fed. R. Civ. P. 55(b)(1).

For the foregoing reasons, Plaintiffs respectfully request this Court to strike Defendants Rising Eagle and JSquared's Answers, and then enter a default against Defendants Rising Eagle, Rising Cayman, and JSquared pursuant to Rule 55(a) of the Federal Rules of Civil Procedure.

Dated September 9, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that, on September 9, 2022, I electronically filed the foregoing **PLAINTIFF STATES' REQUEST FOR THE COURT TO ENTER DEFAULT AGAINST DEFENDANTS RISING EAGLE CAPITAL GROUP LLC, RISING EAGLE CAPITAL GROUP-CAYMAN, AND JSQUARED TELECOM LLC** with the Clerk using the CM/ECF system, which will automatically send e-mail notification of such filing to all counsel of record. I hereby certify that, on September 9, 2022, I served the below parties via Certified Mail and E-Mail:

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on his own behalf and on behalf of all
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